IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 9TH MARCH 2007 / 18TH PHALGUNA 1928

WP(C).No. 573 of 2007(R)

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PETITIONER:

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1. SHEEBA.N., PEON, SULTHAN BATHERY CO-OP.BANK LTD., W/O.PRAVEEN, EZHUTHUPALLY (H), KALLUVAYAL, SULTHAN BATHERY, WAYANAD DISTRICT.

2. LINI MATHEW.K., PEON, SULTHAN BATHERY CO-OP.BANK LTD., D/O.K.A.MATHEW, KALLANKULANGARA (H), CHULLIYODU (PO), WAYANAD DISTRICT.

3. P.K.SHAJAN, PEON, SULTHAN BATHERY CO-OP.BANK LTD., PUTHANPURAYIL (H), CHEERAL (PO), SULTHAN BATHERY, WAYANAD DISTRICT.

BY ADV. SRI.S.M.PRASANTH
SRI.ABRAHAM MATHEW (VETTOOR)

RESPONDENTS:

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1. THE SULTHAN BATHERY SERVICE CO-OPERATIVE BANK LTD., REP. BY ITS SECRETARY, SULTHAN BATHERY (PO), WAYANAD.

2. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL), WAYANAD, KALPETTA DISTRICT.

3. THE DISTRICT LABOUR OFFICER & CONCILIATION OFFICER, WAYANAD, MUTTIL (PO), WAYANAD (DIST).

BY ADV. SRI.M.P.ASHOK KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) No. 573/2007 **APPENDIX**

-PETITIONER'S EXHIBITS

Ext. P1: True copy of Judgment dated 31-1-2006 in W.P.(C) No. 33058/2005 (I)

Ext.P2: True copy of petition filed before the 3rd respondent by petitioners 1 & 2

Ext.P3: True copy of order of the 3rd respondent dated 17-10-2006

Ext.P4: True copy of notice dated 30-12-2006 issued by 1st respondent to the 1st petitioner

Ext.P5: True copy of notice dated 30-12-2006 issued by 1st respondent to the 2nd petitioner

Ext.P6: True copy of notice dated 30-12-2006 issued by 1st respondent to the 3rd petitioner

Ext.P7: True copy of the order in W.P(C) No.27833 of 2006 dated 25-10-2006

Ext.P8: True copy of the interview card issued by the Sultan Bathery Service Co-operative Bank Ltd dated 16-11-2005

RESPONDENT'S EXHIBITS

Ext.R1(a): Photocopy of the Order No.CRP 297/2005 dated 27-8-2005

Ext.R1(b): Photocopy of the Interim Order dated 01-09-2005 in W.P.(C) 25911/2005

Ext.R1(c) Photocopy of the resolution No.12 dated 22-06-2006

Ext.R1(d) Photocopy of the Order dated 05-12-2006

Ext.R1(e) Photocopy of the resolution dated 30-12-2006

//True copy//

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**S.SIRI JAGAN .J**

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**W.P (C) No. 573 of 2007**

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**Dated this the 9th day of March 2007**

**JUDGMENT**

The petitioners are temporary peons in the first respondent society on daily wages. They have approached this Court challenging termination of their services issued by the first respondent society, namely Ext.P4 , P5, and P6 resolutions. The contention of the petitioners is that they had earlier approached this Court by filing W.P.(C) 33053/2005 and 2667/2006 in which the first respondent bank had undertaken before this Court not to terminate the services of the petitioners till regular appointments are made. Therefore they seek the following reliefs in this writ petition

> *i) Call for the records leading up to Exhibits P4,P5 & P6 and quash the same by issuing a writ of certiorari or any other appropriate writ order or direction; or*
> *ii) In the alternative, issue a writ of mandamus or any other appropriate writ, order or direction commanding the 2nd respondent to call for the records leading up to Exhibits-P4 P5 and P6 and rescind the same along with the resolution No.6 dated 30-12-2006 of the 1st respondent in exercise of his powers conferred under the Kerala Co-operative Societies Act 1969 and the Rules made thereunder*
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> *iii) issue a writ of mandamus or any other appropriate writ, order or direction commanding the 1st respondent to comply with the terms of Exhibits-*

*P3 settlement;*

*iv)issue any other appropriate writ, order or direction as this Honourable Court may deem fit and proper in the interest of justice*

2. I have heard the learned counsel for the petitioners as also learned counsel for the 1st respondent and the learned Government pleader. The 1st respondent opposes the prayers of the petitioners, on the basis of the decision of the Supreme Court in **Secretary State of Karnataka & Others Vs Umadevi (3) and others ( (2006) 4 SCC 1)** wherein the Supreme Court has held that provisional employees do not have any right for regularisation simply because they have continued for long on temporary basis. However the first respondent does not dispute that in Ext.P1,the Bank had undertaken not to terminate the services of the petitioners till regular appointments are made. That has been recorded by this Court in Ext.P1 judgment. That being so, I do not think that the first respondent can resile from that undertaking now, especially since in W.P.(C) 19483 of 2006 and W.P.(C) 27833 of 2006 I have directed the first respondent society to complete the selection process for regular selection to the post which are now held by the temporary employees expeditiously. Accordingly I quash Exts. P4, P5 and P6 and direct the first respondent to

honour the undertaking made by them in Ext.P1 judgment,not to terminate the service of the petitioners till regular appointments are made to the post which they are holding. The writ petition is disposed of as above.

**S.SIRI JAGAN .JUDGE**

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